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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/597,814  | 12/05/2006  | Donald John Newman   | 10399.17            | 6648             |
| 21999 7590 12/08/2009<br>KIRTON AND MCCONKIE<br>60 EAST SOUTH TEMPLE,<br>SUITE 1800<br>SALT LAKE CITY, UT 84111 |             |                      |                     |                  |
| EXAMINER  |             |                      |                     |                  |
| LUGO, CARLOS  |             |                      |                     |                  |
| ART UNIT  |             | PAPER NUMBER         |                     |                  |
| 3673  |             |                      |                     |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/597,814

**Applicant(s)**

NEWMAN ET AL.

**Examiner**

CARLOS LUGO

**Art Unit**

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 September 2009.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-14 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 05 December 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/GS/US)  
4) ☐ Interview Summary (PTO-413)  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_  
Paper No(s)/Mail Date \_\_\_\_\_

**DETAILED ACTION**

1. This Office Action is in response to applicant's amendment filed on September 14, 2009.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:
  - The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. **Claims 1 and 14 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 14 requires that the handle spigot engages the housing at one end of the housing and that the opposed end is secured to the mounting stock (By means of the screw 33).

First, as clearly shown in the drawings and in the specification, the spigot 11 does not engage any end of the housing. Engage requires interlocking of members, and as clearly shown in the drawings (figures 3 and 4) and in the specification (page 5 lines 16-30), the spigot 11 never engages or interlock with one end of the housing.

Second, if the applicant is trying to claim that the spigot will contact an end of the housing, then the limitation is still indefinite. As clearly shown in figures 3 and 4 and in the specification, a washer 24 is positioned between the end of the housing and the head part of the spigot. Therefore, no contact is presented between an end of the housing and the spigot.

Therefore, in order to continue with the examination, the limitations will be given a broad interpretation. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1-14 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 5,934,117 to Shen.

Shen discloses a handle assembly comprising a handle (12), a handle spigot (22), biasing means (26) to bias the handle to a naturally closed position, an operating plate (24) which is rotatable by the handle spigot, a mounting stock (16), a housing (18), and a mounting plate (14).

The spigot, biasing means, operating plate and a majority of the mounting stock are positioned within the housing. The mounting stock is securable to one end of the housing (by means of 5) by the housing being fitted to the mounting stock so that at least a portion of the mounting stock extends into an end of the housing (at least could be just a portion or all).

6. **Claims 1-8 and 10-14 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 6,386,602 to Lan.

Lan discloses a handle assembly comprising a handle (3), a handle spigot (2), biasing means (15) to bias the handle to a naturally closed position, an operating

plate (4, 23) which is rotatable by the handle spigot, a mounting stock (1), and a housing (16).

The spigot, biasing means, operating plate and a majority of the mounting stock are positioned within the housing. The mounting stock is securable to one end of the housing (by the curved end where 16 is pointing in figure 3) by the housing being fitted to the mounting stock so that at least a portion of the mounting stock extends into an end of the housing (at least could be just a portion or all).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claim 9 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 6,386,602 to Lan in view of US Pat No 5,617,749 to Park.

Lan fails to disclose the use of a mounting plate with the handle assembly.

Park teaches that it is well known in the art to provide a mounting plate (plate attached to the door, figure 1) that interacts with a handle assembly.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the handle assembly described by Lan with a mounting plate, as taught by Park, in order to make a separation between the handle assembly and the surface where is place it. The use of a plate will not change the mechanism of the handle assembly.

***Response to Arguments***

9. The current arguments with respect that the prior art fails to disclose the invention as now claimed are not persuasive.

Right now, the current rejection in view of Lan discloses that the mounting stock is securable to one end of the housing, by the housing being fitted to the mounting stock so that at least a portion of the mounting stock extends into an end of the housing (at least could be just a portion or all).

However, a new non final rejection has been made on the record since the rejection in view of Lan should be a 102(b) rejection instead of a 103 rejection.

As to the previous rejection in view of Fann, the current amendment overcomes the rejection. The rejection has been withdrawn.

Also, in view of the amendment, a new rejection has been made on the record in view of Shen.

***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARLOS LUGO whose telephone number is (571)272-7058. The examiner can normally be reached on 10-7pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Carlos Lugo/  
Primary Examiner  
Art Unit 3673

December 6, 2009.